

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

CLAUDE GENE LEE, SR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 1:06-CV-874-MHT
	)	
WESTPOINT HOME, INC.,	)	
	)	
Defendant.	)	

**WESTPOINT’S MOTION FOR LEAVE TO FILE A REPLY BRIEF AND ADDITIONAL  
EVIDENCE IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

WestPoint respectfully moves this Court for leave to file on or before Wednesday, September 12, 2007, a reply brief and additional evidence in support of its motion for summary judgment and as grounds therefore states as follows:

1. On June 7, 2007, WestPoint filed its motion for summary judgment supported by the declarations of WestPoint employees Brendt Murphy and Frank Major. (Doc. nos. 12-14.)
2. On July 6, 2007, Plaintiff filed a response in opposition to WestPoint’s motion for summary judgment. (Doc. nos. 18, 19, 29, 20, 23-27.)
3. This Court’s Order of June 8, 2007 (Doc. # 15) does not provide for a date on which WestPoint may reply to Plaintiff’s response in opposition of WestPoint’s motion for summary judgment.
4. Although WestPoint had requested deposition dates from Plaintiff’s counsel for the taking of Plaintiff’s deposition prior to the summary judgment deadline, due to the ongoing settlement negotiations in which the parties were engaged at that time, Plaintiff’s counsel did not provide dates.

5. Because of the settlement negotiations, the parties jointly moved the Court to extend the discovery and dispositive motion deadlines. (Doc. # 10.)

6. After the parties' joint motion to extend the discovery and dispositive motion deadlines was denied, and settlement negotiations failed, WestPoint moved for summary judgment without having taken the Plaintiff's deposition. (*See* Doc. nos. 11, 12-14.)

7. Subsequent to the motion for summary judgment, on July 17, 2007, WestPoint took Plaintiff's deposition.

8. Subsequent to WestPoint's motion for summary judgment, on August 29, 2007, Plaintiff deposed WestPoint's current Safety/Training Director and one of Plaintiff's former supervisors, Frank Major. WestPoint believes that excerpts from the depositions of Plaintiff and Mr. Major to be submitted with a reply brief will aid the Court in ruling on WestPoint's motion for summary judgment.

9. In addition, since the filing of WestPoint's motion for summary judgment, the plans for the Abbeville Plant closing have changed.<sup>1</sup> WestPoint would like the record to accurately reflect the change in the planned closing by submitting a supplemental affidavit.

10. The pretrial hearing in this matter is set for Friday, September 14, 2007.

11. Allowing the reply brief and additional evidence will not delay any of the pending deadlines in this matter and will aid the Court in deciding WestPoint's motion for summary judgment.

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<sup>1</sup> At the time of WestPoint's motion, the Abbeville Plant was scheduled to shutdown entirely. Now, the Abbeville Plant is scheduled for the closing of most, but not all, operations.

WHEREFORE premises considered, WestPoint respectfully moves the Court for leave to file on or before Wednesday, September 12, 2007 a reply brief and additional evidence in support of its motion for summary judgment.

/s/Kelly F. Pate

One of the Attorneys for Defendant WestPoint  
Home, Inc.

**OF COUNSEL:**

David R. Boyd (BOY005)

[dboyd@balch.com](mailto:dboyd@balch.com)

Kelly F. Pate (FIT014)

[kpate@balch.com](mailto:kpate@balch.com)

BALCH & BINGHAM LLP

Post Office Box 78

Montgomery, AL 36101-0078

Telephone: (334) 834-6500

Facsimile: (334) 269-3115

**CERTIFICATE OF SERVICE**

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the AlaFile system which will send notification of such filing and/or that a copy of the foregoing has been served upon the following by placing a copy of same in the United States mail, properly addressed and postage prepaid, on this 7th day of September, 2007:

Jay E. Tidwell, Esq.  
Tidwell Law Group, LLC  
2112 11th Avenue South, Suite 217  
Birmingham, AL 35205

Stephen C. Wallace, Esq.  
Dawson & Wallace, LLC  
2229 Morris Avenue  
Birmingham, AL 35203

Richard E. Crum, Esq.  
M. Russ Goodman, Esq.  
Cobb, Shealy, Crum, Derrick & Pike, P.A.  
206 North Lena Street  
Dothan, AL 36303

/s/Kelly F. Pate  
Of Counsel